S.B. CIVIL WRIT PETITION NO.6228/2005

M/s. Kesar Synthetics & ors.
vs.
Rajasthan Financial Corporation and others.

Date : 21.10.2005

HON'BLE MR. PRAKASH TATIA, J.

Mr. Rajendra Mehta, for the petitioner.

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Heard learned counsel for the petitioner.

In a matter of recovery of loan amount from the petitioner, a notice was issued under Section 32G of State Financial Corporation Act, 1951 (for short 'SFC Act'), copy of which is placed on record as Annex.3.

Learned counsel for the petitioner submits that despite the fact that a civil suit for rendition of account filed by the petitioner is pending since 1998, the respondents are trying to recover the amount from the personal assets of the partners of the firm by invoking powers under Section 32G of the SFC Act.

In view of the fact that the suit for rendition of accounts was filed in 1998 and the temporary injunction application so far as sale of assets of the petitioner firm has already been rejected by the civil court, therefore, so far the respondent's right to recover the amount from the firm and its partner has been recognised by the civil court

though prima-facie, if the petitioner still had any cause for seeking injunction order, it could have moved application for injunction in the civil suit itself but the petitioner has preferred this writ petition to challenge the recovery proceedings whereas all the complicated question of fact about the account could have been looked properly by the civil court if the petitioner would have submitted another application for injunction in his pending civil suit but the petitioner wants that this Court should look into account or pass order which can be passed by civil court in civil pending proceedings. Apart from above, the petitioner's objection is more about the mode of recovery of loan amount by the respondent after rejection of the petitioner's application for injunction by civil court. There is no reason to entertain such writ petition in such fact situation.

In view of the above, when once injunction application has been dismissed so far as sale of firm's property is concerned, I do not find any reason to interfere in the impugned order.

Accordingly, this writ petition having no merit is hereby dismissed.

(PRAKASH TATIA), J.

S.Phophaliya